

Notice of Allowability

Application No.

10/716,803

Examiner

Nashaat T. Nashed, Ph. D.

Applicant(s)

BLANC ET AL.

Art Unit

1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to filing the application on 11/20/03.
2. ☒ The allowed claim(s) is/are 23-30.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 08/403,852.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 4/8/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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The application has been amended as requested in the communication filed November 20, 2003. Accordingly, claims 1-22 have been canceled, and new claims 23-30 have been entered.

Claims 23-30 are pending and under consideration.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Karin Krupen on January 18, 2006.

The application has been amended as follows:

Amend the following claims as shown below:

- Claim 23 A method for preparing pristinamycin IIA or IIB comprising:
- a) specifically introducing a disabling mutation into at least one gene target in a microorganism that produces pristinamycin IA and pristinamycin IB, wherein said gene target is selected from the *snbA* gene of SEQ ID NO: 5 (~~SEQ ID NO:20~~) and genes that hybridize to the *snbA* gene of SEQ ID NO: 5 (~~SEQ ID NO:20~~) of *Streptomyces pristinaespiralis* in the presence of formamide at 42 °C with washes at 50 °C and 60 °C in 2 X SCC and 0.1% SDS, wherein said gene target encodes a polypeptide that is a 3-hydroxypicolinic acid:adenosine 5'-monophosphate ligase;
 - (b) selecting cells containing the mutated gene, wherein the cells are blocked in the production of pristinamycin IA and IB;
 - (c) culturing said cells; and
 - (d) recovering said pristinamycin IIA, pristinamycin IIB, or pristinamycin IIA and IIB.
- Claim 24 The method of claim 23, wherein said gene target is the *snbA* ~~snbA~~ gene of *Streptomyces pristinaespiralis* of SEQ ID NO: 5 (~~SEQ ID NO:20~~).

Claims 23-30 are allowed.

The following is an examiner's statement of reasons for allowance: The specification teaches the gene cluster required for the biosynthesis of streptogramins from *Streptomyces pristinaespiralis* and the chemical role of several open reading frames in the biosynthetic pathway including the *snbA* gene of SEQ ID NO: 5 encoding

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the 3-hydroxycolinic acid:adinosine monophosphate ligase of SEQ ID NO: 20. Claims directed to the *snbA* gene of SEQ ID NO: 5 and the polypeptide encoded by said gene were patented in the parent application serial number 08/403,852, now U. S. patent 5,891,695. The claimed method is fully enabled by the specification, starting at page 138, section 9.4.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashaat T. Nashed, Ph. D. whose telephone number is 571-272-0934. The examiner can normally be reached on MTWTF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen M. Kerr can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nashaat T. Nashed, Ph. D.
Primary Examiner
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